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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,033	02/25/2000	Donald L. Brodigan	1589 (USW0563PUS)	7568
22193	7590	08/11/2006	EXAMINER	
QWEST COMMUNICATIONS INTERNATIONAL INC LAW DEPT INTELLECTUAL PROPERTY GROUP 1801 CALIFORNIA STREET, SUITE 3800 DENVER, CO 80202			SHANG, ANNAN Q	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/514,033	BRODIGAN ET AL.
	Examiner	Art Unit
	Annan Q. Shang	2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 May 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments and amendments filed 05/24/06 have been fully considered but they are not persuasive.

With respect to claim 1-11 rejected under 102(b) as being anticipated by Pinder et al (5,742,677), applicant amends claim 1 and argues that, "Pinder does not suggest the claimed private data packet containing application interface information for the service provider and containing the service provider address..." (see page labeled 6 of applicant's Remarks).

In response, Examiner disagrees. Examiner notes applicant's arguments, how Pinder teaches sending a private data packet (Messages which includes address, logo and graphics data and the like) in addition to the broadcast video from the SP or IP-14, over the network (WAN or Internet) and through the broadband digital terminal (fig.1 and 2C, IDC-12) to the set top box (HCT or TU-16), the packet containing application interface information (address, logo and graphics data and the like) for the service provider and containing the service provider address (col.4, line 43-col.5, line 29). The messages are private data packet which includes application interface information that enables the HCT or TU to interact to established an impulse pay-per-view communication path between the set top box (HCT or TU) and the service provider (IP-14) based upon the address to allow interactive programming using the application interface information between the service provider and the set top box to personalize the broadcast programming, where a virtual channel or path is established between the

IP-14 and TU or HCT-16 using the ATM network (col.4, line 43-col.5, line 36 and col.9, line 66-col.10, line 35). Hence, applicant's amendments and arguments do not overcome the prior art of records, Pinder. The rejection 102(b) rejection of claims 1-11, is proper, meets all the claimed limitations, maintained and repeated below. **This Office Action is made Final.**

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by **Pinder et al (5,742,677)**.

As to claim 1, note the **Pinder** reference figure 1, disclose a method for providing personalized interactive programming over a data path, the data path extending between a service provider and a set top box (Terminal Unit or Home Communications Terminal 'TU' 16), the service provider being connected to a data network and having an address, the method comprising:

establishing a communication path (figs.1 and 2A-D, col.4, lines 25-66, col.5, lines 5-44, line 59-col.6, line 26) between a broadband digital terminal (Information Distribution Center 'IDC' 12 or Head-end 125 "a local distributor, col.5, line 59-col.6, line 26) and the set top box, the broadband digital terminal (IDC-12) being connected to a

data network (Internet, WAN, public or private, switched or non-switched interactive data network, such as ATM, col.9, line 66-col.10, line 35) and the service provider (SP-14-1 to 14-n) broadcasting video through the broadband digital terminal to the set top box (col.4, lines 25-42), note that to initial transaction the SP broadcasts Messages (private key, address, logo and graphics data and the like), col.4, line 43-col.5, line 29) which enables the SP to communicate directly to TU-16 via addressed communications;

sending a private data packet (Messages) in addition to the broadcast video from the SP, over the network (WAN or Internet) and through the broadband digital terminal to the set top box (TU-16), the packet containing application interface information (address, logo and graphics data and the like) for the service provider and containing the service provider address (col.4, line 43-col.5, line 29) and

establishing an impulse pay-per-view communication path (col.5, lines 5-36, line 46-col.6, line 32, col.9, lines 5-46 and line 66-col.10, line 35) from the set top box through the broadband digital terminal and over the network to the service provider based upon the address to allow interactive programming using the application interface information between the service provider and the set top box to personalize the broadcast programming (col.4, line 43-col.5, line 36 and col.9, line 66-col.10, line 35), note that a virtual channel or path is established between the SP and TU or HCT-16 using the ATM network.

As to claim 2, Pinder further discloses where sending private data packet, is performed by inserting the private data packet between frames of a video transmission (col.7, lines 11-55).

As to claim 3, Pinder further discloses where the video transmission is prerecorded programming that is transmitted on demand (col.5, lines 37-col.6, line 26 and col.9, lines 3-46).

As to claim 4, Pinder further discloses where the video transmission is real-time programming (col.9, lines 3-46).

As to claims 5-6, the claimed "An interactive video/data system for interacting with destination address of a network..." is composed of the same structural elements that were discussed with respect to the rejection of claim 1.

As to claims 7-8, Pinder further discloses where the interactive video/data system comprises an optical network interface between IDC-12 and TU or HCT-16 (col.9, line 66-col.10, line 35) and further discloses a network interface device, such as a modem, between IDC-12 and TU or HCT-16 (col.9, lines 5-46).

Claim 9 is met as previously discussed with respect to claim 2.

As to claims 10-11 is met as previously discussed with respect to claim 1.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**.



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